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APR 06 2004

In re Application of
Tomita, et al.
Application No. 10/645,804
Filed: August 22, 2003
Attorney Docket No. 241833US0

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on the petition filed January 20, 2004, titled "Petition under 37 CFR 1.53(e)". Petitioner is advised that the petition will be treated as request to vacate the language that speaks to omitted items in the "Notice to File Missing Parts of Nonprovisional Application" mailed November 19, 2003, in the above-cited application.

The petition is **granted**.

The decision mailed March 31, 2004, dismissing the instant petition is vacated.

On August 22, 2003, the above-identified application was filed. However, on November 19, 2003, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," stating that application had been accorded a filing date of August 22, 2003, and advising applicant that Figures 2 through 12 as described in the specification appeared to have been omitted. The notice also set a two month period for reply relative to the alleged omitted items and indicated that the two month period for reply was not extendable.

In response, on January 20, 2004, applicant filed the present petition and a \$130.00 petition fee, copies Figures 2 through 12, and a copy of an Office date-stamped postcard receipt acknowledging receipt of 8 sheets of drawings on August 22, 2003, among other items. The response of January 20, 2004, was timely filed because January 19, 2004, was a federal holiday.

Upon review of the record, Figures 2-12 of the drawings were not located among the application papers. However, the evidence is convincing that the application papers deposited August 22, 2003, included Figures 2-12, which were subsequently misplaced by the Office. Therefore, the application, including Figures 2-12 as described in the specification, was complete on filing and entitled to the presently accorded filing date of August 22, 2003.

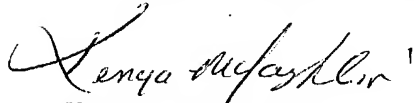
Accordingly, the petition is granted; the language in the Notice relative to the omitted figures is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing

with the presently accorded filing date of August 22, 2003, using the eight sheets of drawings filed August 22, 2003.

Deposit account 15-0030 will be refunded \$110.00 for the extension of time fee that was incorrectly charged and a treasury check in the amount of \$130.00 will be issued for the petition fee.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

A handwritten signature in cursive script, reading "Kenya A. McLaughlin".

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions